

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
MAGISTRATE CRIMINAL MINUTES

FILED
DISTRICT COURT OF GUAM

APR 11 2005

CASE NO. 05-00007

DATE: 04/11/2005

MARY L.M. MORAN
CLERK OF COURT

HON. JOAQUIN V.E. MANIBUSAN, JR., Magistrate Judge

Court Reporter: Wanda Miles

Hearing Electronically Recorded: 1:44:09 - 1:55:11

Law Clerk: Judith Hattori

Courtroom Deputy: Virginia T. Kilgore

CSO: N. Edrosa

(5)

***** APPEARANCES *****

DEFT: HAROLD J. CRUZ

(X) PRESENT (X) CUSTODY () BOND () P.R.

ATTY: KIM SAVO

(X) PRESENT () RETAINED (X) FPD () CJA APPOINTED

DEFT: ERNEST Q. MUNA

(X) PRESENT (X) CUSTODY () BOND () P.R.

ATTY: MARK SMITH

(X) PRESENT () RETAINED () FPD (X) CJA APPOINTED

U.S. ATTORNEY: JOSEPH TOCK

AGENT:

U.S. PROBATION: CARLEEN BORJA

U.S. MARSHAL: P. RABINA

INTERPRETER: _____ () SWORN LANGUAGE: _____
() PREVIOUSLY SWORN

***** PROCEEDINGS: INITIAL APPEARANCE RE COMPLAINT *****

() COMPLAINT READ TO DEFENDANT

(X) FINANCIAL AFFIDAVITS REVIEWED AND ACCEPTED: FEDERAL PUBLIC DEFENDER, ATTORNEY APPOINTED FOR DEFENDANT HAROLD J. CRUZ AND MARK SMITH, ATTORNEY APPOINTED FOR DEFENDANT ERNEST Q. MUNA

(X) DEFENDANTS SWORN AND EXAMINED: AGE: _____ HIGH SCHOOL COMPLETED: _____

() DEFENDANT ARRAIGNED AND ADVISED OF HIS RIGHTS, CHARGES AND PENALTIES

() REMOVAL/IDENTITY HEARING () CONDUCTED () WAIVED () SET FOR: _____ at _____

() WARRANT OF REMOVAL ISSUED

() GOV'T SUMMARIZES THE EVIDENCE () GOV'T SUBMITS TO THE PLEA AGREEMENT

(X) COURT QUESTIONS DEFENDANTS REGARDING THEIR PHYSICAL AND MENTAL CONDITION, AND ADVISES DEFENDANTS OF THE NATURE AND POSSIBLE CONSEQUENCES OF SAID PLEA

(X) DEFENDANTS WAIVE READING OF (X) COMPLAINT () INFORMATION () INDICTMENT

(X) PLEA ENTERED: HAROLD J. CRUZ () GUILTY (X) NOT GUILTY - TO: THE CHARGES IN THE COMPLAINT

(X) PLEA ENTERED: ERNEST Q. MUNA () GUILTY (X) NOT GUILTY - TO: COUNTS I AND II

() COUNT(S) _____ DISMISSED ON GOVERNMENT'S MOTION

() PLEA AGREEMENT FILED: _____ PLEA: () ACCEPTED () REJECTED

() COURT ORDERS PLEA AGREEMENT SEALED

() COURT REJECTS PLEA AGREEMENT AND REFERS IT TO: _____ FOR RECOMMENDATION.

() SENTENCING DATE: _____ at _____ () STATUS HEARING: _____ at _____

() PRESENTENCE REPORT ORDERED AND DUE: _____

() PRELIMINARY EXAMINATION SET FOR: _____

() ARRAIGNMENT SET FOR: _____

(X) TRIAL SET FOR: JUNE 14, 2005 at 9:30 A.M. *pt*

PROCEEDINGS CONTINUED TO: _____ at _____

(X) DEFENDANTS TO BE RELEASED ON BOND (See Attached Release Conditions)

() DEFENDANT REMANDED TO THE CUSTODY OF THE U.S. MARSHAL SERVICE FOR () PROCESSING () DETENTION

() DETENTION HEARING REQUESTED BY GOV'T DEFT IS SET FOR: _____ at _____

() DEFENDANT RELEASED ON BAIL AS PREVIOUSLY ORDERED BY THIS COURT

NOTES:

Government had no objections to the release conditions recommended by the pretrial service office. No objections. The Court released defendants pursuant to the conditions recommended by pretrial.

Courtroom Deputy: *[Signature]*

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:

(Name of person or organization) _____

(Address) _____

(City and state) _____

(Tel. No.) _____

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Custodian or Proxy

Date _____

(X) (7) The defendant shall:

(X) (a) report to the U.S. PROBATION OFFICE,

telephone number (671) 473-9201, not later AS DIRECTED

() (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property: _____

() (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described _____

() (d) execute a bail bond with solvent sureties in the amount of \$ _____

(X) (e) maintain or actively seek employment.

() (f) maintain or commence an education program.

(X) (g) surrender any passport to: Clerk of Court, U.S. District Court of Guam, 4th Floor, U.S. Courthouse, 520 West Soledad Avenue, Hagatna, GU 96910

(X) (h) obtain no passport.

(X) (i) abide by the following restrictions on personal association, place of abode, or travel:

STAY AWAY FROM ALL PORTS OF ENTRY OR EXIT

() (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: _____

() (k) undergo medical or psychiatric treatment and/or remain in an institution as follows: _____

() (l) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s): _____

() (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the pretrial services office or supervising officer.

(X) (n) refrain from possessing a firearm, destructive device, or other dangerous weapons.

(X) (o) refrain from () any (X) excessive use of alcohol.

(X) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

() (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

() (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services office or supervising officer.

() (s) refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.

() (t) participate in one of the following home confinement program components and abide by all the requirements of the program which () will or () will not include electronic monitoring or other location verification system. You shall pay all or part of the cost of the program based upon your ability to pay as determined by the pretrial services office or supervising officer.

() (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by the pretrial services office or supervising officer; or

() (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the pretrial services office or supervising officer; or

() (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the pretrial services office or supervising officer.

() (u) report as soon as possible, to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.

(X) (v) **NOT LEAVE THE TERRITORY OF GUAM WITHOUT THE PERMISSION OF THE PROBATION OFFICE AND THE COURT**

Submit to alcohol testing as approved by the U.S. Probation Office

(X) (w) Maintain residence at _____ and not change residence without the permission of the U.S. Probation Office

Stay 500 feet away from any military installation

(X) (x) Avoid any contact with co-defendants in this case

Shall surrender his firearms identification card and not obtain a firearms identification card

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Signed: _____

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Submit to alcohol testing as approved by the U.S. Probation Office

(X) (w) **Maintain residence at _____ and not change residence without the permission of the U.S. Probation Office**

Stay 500 feet away from any military installation unless granted permission by military authorities.

(X) (x) **Avoid any contact with co-defendants in this case**

Shall surrender his firearms identification card and not obtain a firearms identification card